DOCUMENT RESUME

ED 024 107 EA 001 672

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The Processes of Face-to-Face Negotiation.

National Inst. for the Study of Educational Change, Bloomington, Ind.

Pub Date Jun 68

Note- 16p.; Address to the National Conference-Workshop on Professional Negotiation (Bloomington, Indiana, June, 1968).

EDRS Price MF-$0.25 HC-$0.90

Descriptors- Administrator Role, *Boards of Education, *Collective Negotiation, *Principals, School Districts, *School Superintendents, Superintendent Role, Teacher Administrator Relationship, *Teacher Associations, Teacher Militancy, Teacher Strikes

The following major aspects of collective negotiations in education were briefly reviewed at a conference in Bloomington, Indiana, June 1968, sponsored jointly by the Department of Elementary School Principals (NEA), the Indiana Association of Elementary School Principals, and Indiana University. (1) Benevolent administrative leadership is rapidly becoming a thing of the past. (2) negotiation in education is often revolutionary rather than evolutionary. (3) the strike is the only real power base in serious bargaining by teacher associations. (4) as a consequence of the procedural and conceptual problems which have occurred when board members have participated in face-to-face negotiations, superintendents and their administrative staff are becoming the prime and active negotiators for the board. (5) experienced professional negotiators from outside the local system may represent the local teachers association, necessitating equally qualified personnel to represent the local administration. (6) the mediating roles of both the superintendent and the principal in negotiations are exceedingly difficult and need to be more clearly defined. Three illustrative face-to-face negotiation processes are described and evaluated. (JK)

EDO 24107

THE PROCESSES OF FACE-TO-FACE NEGOTIATION

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An Address to the National Conference-Workshop on
Professional Negotiation

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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Sponsored by The Department of Elementary School Principals (NEA), The Indiana Association of Elementary School Principals, and Indiana University, Bloomington, Indiana - June, 1968

EA 001 672

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THE PROCESSES OF FACE-TO-FACE NEGOTIATION

To accurately describe the processes of face-to-face negotiation is difficult because there is such a wide spectrum of behavior in different school districts across the country. At one end of this spectrum we have districts which are engaged in what I like to call "hardnosed bargaining." That is, bargaining which is strictly adversary in nature, which at times is very bitter and acrimoneous, and which often results in a total impasse leading to strikes or sanctions.

On the other hand, we have school districts at the other end of the spectrum. For such districts it is "business as usual." They do not engage in collective negotiation at all and may never do so. They maintain board-administration-staff relations in much the same way that they have always maintained them. I call this end of the spectrum the "traditional" way of doing things.

Now between these two extremes we have the majority of school districts. The board-administration-staff relationships of this majority assume almost every imaginable shade and variation of behavior.

Because such a spectrum exists, because variations are so great, there is no one right way in which face-to-face negotiation should be conducted. Beware of any man who claims to know the right way for your districts or for all districts. For such a man--unless he has studied your district for some time--is a lier, or a fool, or both.

In talking to you about negotiation processes, I cannot talk about the entire spectrum. I will talk about negotiations which are

much closer to what happens at the hardnosed end of the spectrum than at the traditional end. I do this for two reasons: the hardnosed kind is most troublesome to boards and administrations of school districts, and it's the kind I know most about--when I am asked to work with groups of board members and administrators it is because they are facing something close to hardnosed negotiating. For them traditional methods have failed. I want to emphasize this fact--the fact that I will be talking about fairly well developed, mature, and largely adversary negotiating relationships. I want to emphasize this so that you won't be too upset by the bleakness of some of the things I say. I am not trying to overstate the problem in order to scare you into being concerned. I assume you are concerned or you wouldn't be here. I do think you should be aware of what can happen as negotiation gets closer to the hardnosed end of the spectrum--if you know this you will be likely to do all that you can to prevent this particular kind of negotiating from happening in your district. After this disclaimer let me move on to some of the background which serves to explain, in part, the negotiations problem.

Most boards of education and superintendents who have been involved in the process believe that the very best way to handle collective negotiation is to avoid it entirely. I tend to agree with this notion. If a school district can relate to its teaching staff, and other personnel, in any other way, they should by all means do so. The rub is, of course, that it is becoming more and more difficult to avoid. Boards-administrations may be able to avoid formal negotiation with teachers' groups by giving these groups what they want before they even know they want it. It may be possible to avoid negotiation by guaranteeing that the district salary

schedule will be maintained at a level which is at least 10 per cent higher than that of any other district within 100 miles. (Although this may sound like an extremely expensive method, a school district which avoided negotiation with this strategy would probably end up saving money in the long-run and they would certainly save many of their present board-administration powers and pregrogatives.) It is still possible, in many school districts, to avoid formal collective negotiation by using the more traditional methods of maintaining or improving staff relationships. However, the numbers of such districts are growing smaller.

The probability seems to be very high that most school districts are not going to be able to avoid negotiation in one form or another for much longer. The plain fact is that negotiation is sweeping the country and there appear to be no restraining walls to stop it. The situation in Michigan, Massachusetts, New York, and Florida is quite likely to be the situation in nearly every school district of any size within the next three to five years. With the adoption of state statutes on negotiation in more and more states, the practice of formal negotiations is certain to spread rapidly. This is not to say that you should <u>fight</u> having a state law, I think you <u>must</u> have one, but it is axiomatic--with a law the process spreads. You may disagree with this general prediction, but I think you'll have to dig pretty hard to find any evidence to indicate that it is an alarmist prediction.

In any event, given the conditions that prevail today, there appears to be little to be gained by worrying about the legitimacy of collective negotiation in education. Negotiation is a dramatic break with past practices in board-administration-staff procedures, but the break is being

made rapidly. (To use the hippy terminology--"that's the way it is, baby.") If that is indeed the way it is, then administrators simply have to learn to live with and deal with negotiation processes. If you can accept this point, then there are a few other points that need to be emphasized over and over again:

First--benevolent administrative leadership is becoming a thing of the past. Teachers no longer want to be allowed to participate in educational decision-making and policy formulation--they no longer want to be granted these powers, they want them, and they can get them as a matter of right.

Teachers have seen by means of vivid examples, that formal power is much more effective than is granted power. Whether we like it or not, they see examples every day which illustrate that negotiation can gain power and other benefits for them, that fifty years of more professionally oriented and accepted approaches have not produced. With these kinds of examples proding them, even many non-militant teachers will and do "take to" militancy--if not personally, then by implied consent. So even if an administrator can claim today that his staff is "one big happy family," he may not be able to make the same claim next month or next year.

I think administrators should be aware too, that negotiation, militancy, and teacher organizational activity has become the fashionable thing to do. Negotiating is "in," like change and innovation, its the "sexy new thing." There is a kind of bandwagon movement in the country and it is getting to be the "professional" imperative among teachers' groups to become highly active if not militant.

Added to this bandwagon effect there is the very real battle between the two major teachers' organizations. This battle adds to the pressures on teachers to do something. Each of the organizations wants to build a record of accomplishment that surpasses that of the other.

Given the bandwagon effect, the organizational battles, and add to these the tacit cultural acceptance of civil disobedience in matters of racial equality and students' rights and the scene is set for strenuous teacher activism.

Finally, in the U. S. today, the rights of the individual are becoming more and more important than are vested or property rights. You may or may not agree that this is as it should be. However, it is the case, and because it is you can expect courts and lawmakers to look with much more favor on the "cause" of teachers than they ever have in the past. Because of all these factors, we can expects the job of administrator and board member to become a great deal more difficult to handle if the "traditional" methods are maintained. (Ex-President Truman might have put it, "that the administrative kitchen is going to get mighty hot.")

I have suggested the bandwagon effect, the organizational fight, the tacit acceptance of civil disobedience, and the concern with individual rights to help in explaining and understanding some of the causes of contemporary teacher behaviors. The social situation sets the stage for teacher and administrative change. However, there is another good reason for pointing out these phenomena--that is, so that you will recognize, that in many cases, administrators should not feel hurt or betrayed when their teachers become militant. Often administration is powerless

to prevent it. Unfortunately, it is the administrator who runs the most democratic school who feels most betrayed by his teachers when they organize and push him and the board. This administrator may become bitter. He should not. Social events have simply put him in a position where he cannot win without changing. His teachers may, in fact, think he is a great administrator and still become militant to get at the public or the state through him. (Get at them, that is, to make them aware that teaching is a profession, that quality education is going to cost more money than is now being provided.)

This lengthy first point is related to my second point. That is, that when negotiation comes to a school district it is often a revolutionary change rather than an evolutionary change. A school district can have a very active or militant teachers' group on its hands almost overnight. The rapidity of this change in outlook helps to explain why so many boards, administrators, and yes, even professors of school administration, have been caught asleep at the switch. It's a matter of not being concerned about teacher negotiation until it is too late. The speed with which formal negotiation can come to a district is important simply because so much of what happens later in the relationship is based on the very first contract or agreement negotiated. Administrators and boards who are unprepared for their very first negotiation experience often find themselves either giving away everything except the superintendent's office, or with a serious work stopage or sanction situation. If they get past that first contract without too much damage, they have a chance. They at least try to be ready for the second and subsequent negotiation of contracts.

The third point I want to make relates to strikes. I'm sure that this point will sound like heresy to some of you and I'm sorry about that. But the point is that in serious bargaining the teachers' organization has only one real power base and that power is the strike. Now we know that teachers' strikes are illegal, but we also know that they occur with some regularity--I believe we had about 100 this year and the prediction is for 300 or more next year. Let's face it, the anti-strike laws have been, in effect, unenforceable. I don't think the answer is tougher laws or greater effort in enforcing the law, but rather a different kind of law. You see, if teachers are deprived of the power base of the strike they must be given some other power base. Without this "other" power base, any board in the country can simply refuse to listen to, or negotiate with, its teachers. Unless the teachers threaten to strike and are willing to back the threat they can be sent packing. This sounds vicious I know, but what can teachers do with a board that totally denies them? Most boards will not do this for obvious reasons, but enough do it to make it a problem.

The other side of the coin is just as bad. Boards of education have only one real power base as well, and that is their willingness and ability to take a strike. I know that the law and past practice support the board in this situation. But if the law is unenforceable or unenforced, the true power base reverts back to the boards's ability to weather and break a strike.

I bring up this point not to be a troublemaker, but to impress upon you that a good state law will have to provide teachers with suitable power

base other than the strike. This, of course means some sort of binding arbitration or appeal mechanism. Without this, strikes will continue and education and children will suffer. With this different power base, strikes will not be totally eliminated, but they should become very, very rare.

A fourth point is that superintendents and/or their administrative staff will become the prime and active negotiators for the board. Negotiation, once it becomes firmly established in a school district is a full-time job for at least one man. Board members as a general rule do not have the time required for negotiation, nor the time to develop negotiating talent. But even if they did have the time to devote, there are some compelling reasons why board members should not participate in face-to-face negotiating.

1. If the full-board sits at the table it is empowered to agree right at the table--the teachers must take the agreement back to their membership to be ratified, but the full board agrees and ratifies at the same time. The board needs to maintain this ratification safety valve and should not sit at the table.

2. An individual board member can sit at the table and according to law he is just a citizen, i.e., he cannot commit the board. But the teachers look to him or any board member as the official spokesman and assume that what he agrees to will be ratified by the full board.

3. Boards are usually made up of five, seven, or nine members. As any student of group dynamics can tell you, in a group of this size there are two or more subgroups which don't always agree. A skillful and disciplined teachers negotiating team or spokesman can play these differences to his advantage--he simply uses divide and conquer techniques.

For these reasons it is strongly suggested that board members do not participate in face-to-face negotiation. Now if the board does not,

who does? The board can hire an attorney or a consultant firm, but such folks are expensive, and ones that can <u>really</u> help are rare at any price. <u>Barring</u> these two options the task will fall to the administrative staff. In smaller districts the superintendent will be the prime spokesman with assistants or principals as part of his team. In larger districts a new position will be created--it may not be called superintendent for negotiation, but that's what the job will be. (It has been suggested, only somewhat facetiously, that school districts search for a young, bright, glib administrator who has lots of stamina and who is <u>highly expendable</u>, to take on the across-the-table bargaining--it is thought that such a man would only stay around three or four years and then move on to another district.)

A <u>fifth</u> point is that whoever negotiates for the board may well find himself facing one or more experienced professional negotiators. It is extremely difficult to limit the teachers' negotiating representative to someone from within the system. If the state or national office of the teachers' organization is interested in pointing with pride to what it has accomplished in a particular district, they will send in a team which has been through the mill a number of times--needless to say, these fellows are sharp!

Let me make one last point before I move on to talk a bit about specific negotiating processes. Some of you may be wondering at this point about the feasibility of the superintendent acting as a mediator in the negotiation process. This role has been suggested in the professional literature in the past, but not so much lately. By acting

as mediator we mean that the superintendent chairs the sessions, and that he provides needed information and advice to both sides of the table. If he does this, so the theory goes, he can be aloof, he can avoid most of the not-so-happy in-fighting that may occur, and he can maintain his position as beloved leader of all the staff. This is nice work if he can get it but in practice it is tough to get. The superintendent is responsible for the management of the school and this puts him squarely on the board's side. The board will invariably turn to him and expect him to represent them or their point of view. This makes the mediator role difficult to assume. But even if the superintendent is able to give it a try, it seems not to work out very well. First he cannot ever possess total information, but both sides expect him to. That's why he's there--to resolve arguments with solid facts. If he does not have the facts, and he usually won't, both sides become upset with him. But an even more difficult problem for the superintendent in this role is that both sides try very hard to coopt him, i.e., to make him take their point of view. If he succumbs to either side's blandishments he is dead as a mediator. If he does not succumb, both sides think he is being unreasonable and they begin to resent his presence at the table. I'm not saying the role of mediator cannot work, I am saying that it is exceedingly difficult to make work.

I'd like to suggest for your consideration that the principal may find it difficult to take a mediator-like role at his level of function in negotiations as well. We don't know enough about the principal's role or function in negotiation to say that this will be the case, but the

mediator-conciliator role may be extremely tough to subsume under his present role and function. Fence straddling, quite simply, requires great skill if it is to be done well.

Now I'm going to move on to some discussion of specific processes of face-to-face negotiation. I'm going to emphasize the behaviors that can occur at the table--behaviors that often produce the kinds of outcomes that cause principals to conclude that the board and higher-level administration is not aware of, or doesn't care about, the effect of particular agreements on the traditional role or functioning of the principal. In some cases it may be true that the negotiators do not know the effect of their agreements on the principalship. It is just as likely that they do know, but that they get trapped into forgetting or being less concerned than you might like them to be.

1. In one situation, board-administration negotiators may begin the negotiation sessions with full concern for the rights and needs of principals and with every intention to protect these rights. However, there is the expectation within the negotiating process that bargaining will occur, that offers and counter-offers will be made, and that agreement will somehow be reached. The board-administration begins negotiating with a plan in mind--usually the best of all possible worlds from the administrative point of view. However, there are some determined people across the table and they have a plan in mind as well.

   Now since the process is one of demand, counter-offer, and counter-counter-offer, and since there is a strong expectation, if not a legal requirement that counter-offers will be made, the strong position that either side might take is slowly but surely eroded. Note too that the teachers have an advantage in this process. They are asking for something they do not now have. If they don't get it this year they will ask for it next year or the year after. Once the boards yields, it's like taxes, they are added but very very seldom taken away. It is this over-time advantage that teachers' organizations have, that causes many experienced negotiators to take the attitude that "you never give them anything, make them earn it." This may

sound unprofessional to you, but I think you can see the reason for this attitude. (In fact, in situations where the teachers' organization is strong, the organization does not want administration to give it anything. The organization wants to earn these "things" so that is can demonstrate its effectiveness to its membership.) In any event, through a series of incremental steps, tradeoffs do occur and the position of the board-administration is gradually eroded---the best of all possible worlds cannot be maintained. This is an inevitable process over time.

There is one defense against this erosion process and that is for the board-administration to come up with its own set of demands at the bargaining table. By this I do not mean demands in reaction to teachers' demands, but rather demands that originate with the board-administration. This defense can also become a good offense and can help the administration shape the future of the relationship and of education. Unfortunately, there are some problems connected with this process of using initial board demands. For example, boards are not accustomed to doing this. If they want to change something, they are accustomed to creating a new policy, not negotiating it.

A second problem is that boards are sometimes reluctant to make their own original demands. They are reluctant because they feel that to do so is playing the teachers' game--that by participating in this way they are putting their stamp of approval on the entire negotiation process. Generally then, board negotiators are not trying to "sell out" on their principals, they are trying not to. But the process may make it seem that they are "selling out."

2. A second kind of behavior that is fairly typical at the negotiating table is called the "whipsaw technique." It works like this--the teachers in a small or poorly financed district will negotiate away certain powers, prerogatives, and privileges because the board must hold fast on dollar issues. In wealthier districts the board will hold fast on the powers and prerogatives issues, but will yield on dollar issues because they can afford to. But since so much of what happens at the table is based on comparisons with other districts in the region, the teachers will use these "other" districts to try to whipsaw from the board what they could not gain last time. Obviously, your board can be influenced by what happens in other districts and your rights and needs may be bypassed simply because other districts are bypassing them.

3. A third behavior at the table involves so called "package deals." This is a form of trading in which one side says, after an appropriate amount of argument, "Ok boys we will drop

our demands on issues 4, 5, and 9 if you give us what we ask for on issues 1, 7, and 10." Now it may be that issues 1, 7, and 10 are particularly painful to principals, but issues 4, 5, and 9 are even more painful, especially to the board. Guess who looses in this case.

A variation of this form of "package dealing" occurs frequently when negotiation has gone on for a long time and the board-administration sees a real or imaginary deadline rapidly approaching. (The deadline may be a strike, sanction, or feeling that school may not open.) In this ~~this~~ situation the negotiators are tired, the hour is late, and both sides want a settlement just to get the business ended and to get some sleep. If they have a number of issues still unresolved, they may begin trading or dealing in packages without a great deal of rhyme or reason. Of course, this is <u>not</u> the way to negotiate, but it does happen--and not too infrequently. When it happens there <u>is no</u> logic or justification for the kinds of concessions that the board-administration has made. They just ran out of steam, and even if a principal were at the table to protect and promote the functioning of principals, he might behave in the same way.

I hope these few examples will help you understand, and perhaps forgive, negotiating behaviors and agreements that seem, from your perspective, to be harmful and a bit ridiculous. I also hope that you can see how much the negotiators for your district can use your help and guidance while they are preparing for and engaging in negotiations. I know that they are beginning to recognize that they need your help and that they cannot administer schools without you on their team.

We have discussed in this workshop the long-range implications of negotiations. We have concluded, I think, that we <u>must</u> take a position of concern for the good of the profession and for the good of education over time. We would be terribly remiss if we were not concerned about these important matters. However, in the group sessions, I sensed that many of you are concerned with immediate survival and adaptation in the negotiations context. This too is an important matter. Unfortunately,

the realities of immediate survival and adaptation are not always compatable with the long-range improvement of administration and education. We need to try to take a position which blends deep concern for the immediate problems that we may face with the longer view of general educational improvement. To over-emphasize the immediate problems can lead to panic actions, professional abuses, and lowered educational quality. To over-emphasize the long-range outcomes of negotiation will lead to our failure to adapt when adaptation is essential, and ultimately, to a pure managerial principalship.

Negotiation is, after all, only a process. Like any process--including democracy--it can be used poorly or well. We have a tendency to view only the conflict elements of the negotiation process--the elements concerned with the allocation of scarce resources, power, or status. There is a reason for this tendency. Negotiations in education is in its infancy and is, in fact, loaded with conflict problems. But there are other elements in the process. There is the integrative element which functions to find common and complementary interests and to solve problems confronting both parties. There is the attitudinal structuring element which functions to influence the attitudes of the sides toward each other, and to strengthen the bonds which relate the two sides. There is also the intragroup element which functions to achieve solidarity and understanding within each of the sides--in administration we need to pay particular and immediate attention to this intragroup negotiating element. If we are to make negotiation the positive process it can be, we must attend to these other elements as well as to the conflict element which cannot be ignored.

Finally, everyone here is concerned with identifying the proper role of the elementary principal in negotiations. There are no definitive answers to this question of proper role. I can tell you what I think the role should be, but my ideas are probably no more or no less valid than are yours. One thing I am sure of, because of my high school training in physics, and that is "that nature abhors a vacuum." Unless you begin to define your role very soon it will be defined for you by others. If you are hesitant to begin defining your role because you fear making a mistake, you may well never get the opportunity to make that mistake.